

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

(PHYSICAL COURT)

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
AND SH. KRINWANT SAHAY, ACCOUNTANT MEMBER**

I.T.A. No. 266/Asr/2025

Assessment Year: 2017-18

Abdul Hamid Mir,
Suliman, Tangdhar,
Kupwara, UT-J & K,
193225

Vs.

Income Tax Officer,
Ward-1, Srinagar
UT- Jammu & Kashmir

[PAN: ALMPH 4919C]

(Appellant)

(Respondent)

Appellant by : Sh. Mohd. Iqbal Untoo, C.A.

Respondent by : Sh. Charan Dass, Sr. D. R.

Date of Hearing : 17.02.2026

Date of Pronouncement : 19.02.2026

ORDER

Per Krinwant Sahay, A.M.:

Appeal in this case has been filed against the order dated 11.06.2024 passed by the ld. CIT(A) NFAC, Delhi for Assessment Year: 2017-18.

2. Grounds of appeal taken by the assessee are as under:

- “1. The action of the learned Commissioner of Income Tax (Appeals)-NFAC in passing the order under section 250 of the Income Tax Act, 1961 against the assessee, is unjust, arbitrary, without application of mind and violates the principles of natural justice and deserves to be quashed.
2. That on the facts and circumstances of the case, the order passed-by the learned CIT(A) under Section 250 and by the Ld. AO under section 144 of the Act is bad in the eyes of law, is against the judicial pronouncements already set as a precedent, having been passed without giving the assessee a proper opportunity of being heard and is in violation of principle of natural justice.
3. That In view of the section 250(4) and 250(5) of the Act, the Ld. CIT(A) has acted in contravention of the law while dismissing the case on account of:

1. REF-Point 5.5-Page o5 of order u/ s 250

“5.5. After going through the facts of the case, it was observed that during the year under consideration the appellant was engaged in the business of ready-made garments. This fact was established from the appellant's bank statements Frequent in showing transfer and cash/non-cash deposits & outward payments made to various persons/parties. The AC observed that the perusal of bank statements revealed that the appellant has made total deposits/transfers of Rs. 25,04,700/- during the F.Y. 2016-17.

Further during the course of assessment proceedings, various notices issued by the AD / 143 (2) 142 (7) remained un complied with and even no return of income was filed. In view of these facts the AO is justified in applying H.P. rate of u/ s 44AD to the said deposits of Rs. 25,04,700/- , which resulted in business income/profit of Rs. 2,00,376/u/ s 28 of the

Income Tax Act, 1961. Accordingly, the addition made on thin account is confirmed and the ground of appeal is dismissed."

2. REF POINT 5.7 PAGE 06 OF ORDRE U/S 250-

"Since, in spite of opportunities given. failed to furnish any the nature and source of cash deposits/credit entries appearing in J&K Bank Main Bazar Sopore, the AO was Justified in making addition of Rs. 10,42,000/- as unexplained money u/s 69A of the Income Tax Act, 1961. In view of the above facts, addition of Rs. 10,42,000/- made by the AO is confirmed and the ground of appeal is dismissed."

(Despite having provided to the Ld. CIT (A), all the material facts, merits and submissions in support of grounds of appeal supported by documentary evidences substantiating the claim of the assessee).

- 4. The Id. CIT(A) seriously erred in facts and in law while-dismissing the appeal and upholding the Ld. AO's Assessment as the addition was made on account of "Deposits in Old currency (SBNs) during 09.11.2016 to 30.12.2016" in bank accounts mentioned at POINT 02 PAGE 02 OF ASSESSMENT ORDER, without judiciously considering the submissions furnished before him wherein is was clearly submitted that the said BANK ACCOUNTS did not belong to the assessee which was substantiated by BANK CERTIFICATE confirming the same as well).*
- 5. Assessee craves right to add, alter or modify any grounds of appeal before or at the time of hearing of the appeal."*

3. The registry has pointed out the delay in filing of the appeal before the Tribunal by 213 days, the counsel of the assessee has filed an application along with an affidavit which is reproduced as under:

- “1. I, ABDUL HAMID MIR, the assessee and hence is fully conversant of the facts deposed below.
2. That appeal was to be filed by 10.08.2024 (when counting from the date of Order and not from the date of communication).
3. The assessee was suffering from persistent neurological problems, including severe headaches, which required extensive medical consultations, tests, and ultimately a septoplasty surgery in 2024. Despite undergoing the procedure, his health issues persisted, causing both physical and psychological distress. The uncertainty surrounding his medical condition rendered him incapable of keeping track of legal compliances, monitoring appeal proceedings, or taking timely action.
4. The assessee resides in a remote, high-altitude border area (Karna Tangdhar), approximately 150 kilometers from Srinagar. The region experiences extreme winter conditions, including heavy snowfall and road blockages, making travel impossible for months. Due to these harsh conditions and his deteriorating health, he could neither seek legal consultation nor receive any communication regarding the adverse order, leading to an unavoidable delay in taking further action.
5. That in this way the delay of 229 days has occurred due to the genuine reasons and it was virtually impossible to take immediate steps in filing the appeal.”

4. Keeping in view, issues mentioned in the affidavit, the delay is hereby condoned.

5. The ld. D.R. did not have any objection in the condonation of delay.

6. At the very outset, the counsel of the assessee brought before the bench during proceedings before us it was argued that the order passed by the ld. CIT(A) is an ex-parte order, the counsel, therefore, argued that the case has not been discussed or assessed on merit before the lower authorities.

7. The ld. DR relied on the order of the ld. CIT(A).

8. We have considered the submissions of the ld. counsel regarding this order being an ex-parte order before the ld. CIT(A) in the appellate proceedings.

9. Thus, we find that the issues in this case have not been discussed on merit after due consideration of assessee's submission.

10. Therefore, keeping in view, the element of natural justice with the assessee, we are inclined to remand this appeal back to the file of the ld. CIT(A) for passing an order *de-novo* after giving adequate opportunities to the assessee of being heard as well as to allow him to file written submissions if any. The assessee will have all the legal

issues before him. The assessee is also directed to co-operate with the department for completion of proceedings before authorities below.

11. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court as on 19.02.2026

**Sd/-
(Udayan Dasgupta)
Judicial Member**

**Sd/-
(Krinwant Sahay)
Accountant Member**

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy
By Order